

Notice of Allowability

Application No.

10/511,270

Examiner

Rita Mitra

Applicant(s)

NAKAJIMA ET AL.

Art Unit

1656

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 8/21/2007.
2. ☒ The allowed claim(s) is/are 20-30 and 46-48.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

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DETAILED ACTION

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on August 21, 2007 has been entered.

Status of the Claims

Applicants' response to the Advisory Action of August 10, 2007 and the Office Action dated April 12, 2007, filed on August 21, 2007 is acknowledged. Claims 20, 25, 30, 47 have been amended, new claim 48 has been added. Therefore, claims 20-28, 30 and 46-48 are currently under examination.

Response to Remarks and Amendments

Claim Rejections – 35 USC § 102

Rejection of claims 20-28, 30 and 47 rejected under 35 U.S.C. 102 is withdrawn in view of amendment to the claims.

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An **Examiner's Amendment** to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Examiner's Amendment to the claims

Claim 20. (Amended): An isolated polynucleotide:

which consists of a coding region for a polypeptide, wherein said polypeptide binds to WF00144 and has a molecular weight of about 35kD; and

~~which~~ said polynucleotide has at least 96% ~~homology~~ sequence identity with to SEQ ID NO: 1, or which hybridizes to the complement of SEQ ID NO: 1 under stringent conditions, wherein stringent conditions comprise washing in 0.1 x SSC and 0.1% SDS at 68°C.

Claim 21. (Amended): The isolated polynucleotide of Claim 20, which has at least 96%

~~homology~~ sequence identity to SEQ ID NO: 1.

Claim 24 (Amended): The isolated polynucleotide of Claim 20, which

~~comprises~~ consists of SEQ ID NO: 1.

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Claim 25 (Amended): The isolated polynucleotide of Claim 20, wherein said encoded polypeptide has at least 96% ~~homology~~ sequence identity with to SEQ ID NO: 2.

Claim 27 (Amended): ~~A polynucleotide~~ An expression vector comprising the polynucleotide of Claim 20, which expresses a polypeptide that binds to WF00144 and has a molecular weight of about 35 kDa.

Claim 29 (Amended): A method for making a polypeptide that binds to WF00144, comprising culturing the transformant of Claim 28 ~~for a time and~~ under conditions suitable for production of a polypeptide that binds to WF00144, and recovering said polypeptide.

Claims 31-45 (cancelled)

Claim 46 (Amended): The isolated polynucleotide of Claim 20, further ~~comprising~~ consisting of at its 5' end an oligonucleotide encoding histidine, lysine or arginine.

Authorization for this Examiner's Amendment was given in a telephone interview with Attorney Thomas Cunningham on October 29, 2007.

Reasons for Allowance

The following is an examiner's statement of reasons for allowance:

The prior art of record does not teach or suggest an isolated polynucleotide having at least 96% sequence identity to SEQ ID NO: 1 consisting of a coding region for a polypeptide having at least 96% sequence identity to SEQ ID NO: 2, wherein said polypeptide binds to WF00144 and has a molecular weight of about 35kd. A method for making a polypeptide that binds to WF00144, comprising culturing an expression vector transformed with said polynucleotide and recovering said polypeptide. A search of prior art did not reveal any teaching or suggestion of a polypeptide as that presently claimed. Therefore, claims are allowable over the art of record.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Claims 20-30 and 46-48 are allowed.

Inquiries

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rita Mitra whose telephone number is 571-272-0954. The examiner can normally be reached on M-F, 10:00 am-7:00 pm.

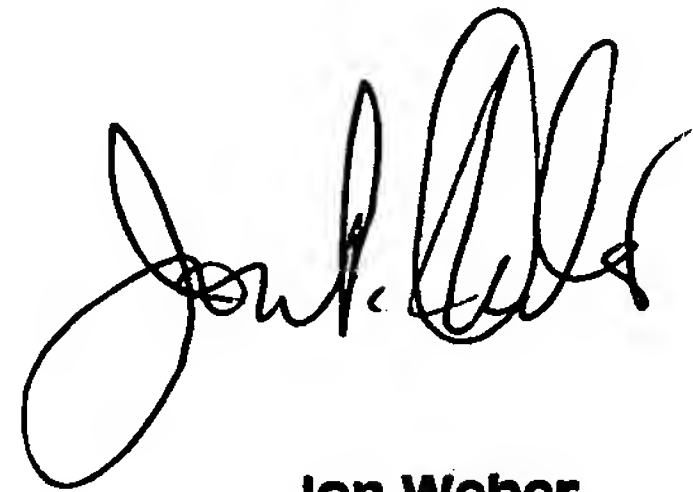
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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dr. Kathleen K. Bragdon can be reached on 571-272-0931. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Rita Mitra, Ph.D.

October 15, 2007



Jon Weber
Supervisory Patent Examiner